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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Bernhard WICHELMANN
Serial No.: 10/700,529
Filed: November 5, 2003
For: METHOD AND DEVICE FOR PREPARING
 SLAUGHTERED POULTRY FOR PLUCKING
Art Unit: 3643
Examiner: Richard Thomas Price, Jr.

DECLARATION OF POUL KJELDSSEN

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Poul Kjeldsen, declare as follows:

(1) I am a citizen of Denmark, residing at 8400 Ebeltoft, Denmark.

I am employed by the Assignee of the above-referenced patent application, Linco Food Systems A/S, where I hold the position of Chief Technologist SEO. I am providing a declaration as an expert in the field of processing of poultry to respond to certain assertions made by the Examiner in the Final Rejection of October 19, 2005.

(2) I have read Serial No. 10/700,529 and the Final Rejection of October 19, 2005, which are attached respectively as Exhibits A and B. I have also read United States Patents 3,657,768 (Snowden) and 5,045,021 (Borup) which are cited in the Final Rejection.

(3) My Curriculum Vitae describing my education, work experience and expertise in the field of processing of poultry is attached as Exhibit C.

(4) I specifically note the Examiner's statement at the bottom of page 2 of the Final Rejection that "[I]n regard to claims 1 and 13, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Borup to be performed on poultry carcasses, in that, both types of carcasses are widely known for being scalded during the processing of turning the carcasses into food, and as a result are considered to be structurally equivalent".

(5) In my opinion, the Examiner's conclusion of structural equivalency is incorrect for several reasons:

First, the objective of scalding poultry is to remove (pick) feathers and not hair from pigs as referred to in Borup in Example 1.

Second, the weight of pigs and the substantial presence of fat under skin of pigs, which I know from general experience, is substantially different than poultry which are much lighter in weight and do not have a substantial layer of fat under their skin which requires substantially different processing conditions to pick feathers from poultry and than to remove hair from pigs.

Third, substantially different amounts of heat and processing times are required for the scalding of poultry, based upon my experience therewith, than described in the disclosure of Borup for scalding pig rind sufficiently to remove bristles as described in column 6, lines 44-52, by a "dehairing machine" to provide pig carcasses after dehairing which possess "a very fine rind quality without red-coloring of the neck and head regions."

(6) Scalding of poultry to provide picking of feathers, in my opinion, is not analogous to the aforementioned processing of pigs to remove hair to provide, as described by Borup, a very fine rind quality without red-coloring of the neck and head regions since poultry skin is thin with almost no fat under the skin to provide insulation of the underlying meat to avoid cooking. The described processing conditions of Borup to provide for dehairing of pigs if applied to scalding of poultry to remove feathers would cook the underlying poultry meat thereby destroying the quality of a poultry product for sale to the customer.


(7) The directing of a water vapor-air mixture against predetermined areas of the poultry "for the preparation of slaughtered poultry for picking" as recited in claims 1 and 13, in my opinion, is fundamentally different than the conditions described in Borup.

(8) Moreover, the scalding of poultry to prepare the carcasses for picking must be quickly performed before rigor mortis sets in (that prevents effective picking) while not cooking the underlying meat. I do not find there to be any consideration of the special conditions for scalding poultry to be taught in Borup.

(9) Moreover, I am informed that the processing of pigs involves a sequence of scalding and hair removal as described by Borup. In my experience, scalding of chickens to prepare them for picking is not normally followed by skinning. This is a further processing difference which I find significant in demonstrating that the teachings of Borup are non-analogous to the subject matter of claims 1 and 13.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: 1-11-2006



Poul Kjeldsen

**CURRICULUM VITAE****Poul Kjeldsen, born 1947****Education:** Mechanical Engineer 1971 in Machinery Construction.

Mechanical Apprenticeship 1968

Responsibilities: Technical and Technologic Management and Consultancy.**Key Qualifications:** Poultry and Food Processing, Quality Assurance, Product Developments, Hygiene, Management, Feasibility Studies and Audits, Project Implementation and Control, Monitoring and Evaluation, Training and Teaching.**Languages:** Danish, German and English.**Employment record:** 1964 – 1968, Apprenticeship in Marine Workshop in Ebeltoft Denmark.

1972 – Present, Linco Food Systems A/S at Trige Denmark

Professional Exp.: 2005 Technical and Technologic Senior Cooperate Consultant and Advisor.

1985 Technical Director, Senior Executive Officer.

1974 Area Sales Manager and Technical Developments.

1972 Poultry Processing Equipment Constructions and R&D